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OFFICE OF PETITIONS

In re Application of
James D. O'Brien Jr.
Application No. 09/928,073
Filed: August 10, 2001
Attorney Docket No. 12128-129001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 2, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 22, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The reply submitted on October 22, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed November 12, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on October 23, 2004.

The above-identified application is being revived solely for purposes of continuity with a submission under 37 CFR 1.114 (request for continued examination).

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 2663 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.


Wan Laymon

Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy